

Senate Bill No. 357

Passed the Senate August 29, 2006

Secretary of the Senate

Passed the Assembly August 22, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 21537.5 of, and to add Section 20037.8 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 357, Perata. State employees: memoranda of understanding: State Bargaining Units 12 and 13.

(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of memoranda of understanding entered into between the state employer and State Bargaining Units 12 and 13, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would further provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memoranda if funds for those provisions are not specifically appropriated by the Legislature.

(2) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.

This bill would provide that final compensation for a person who becomes a state member, as specified, on or after January 1, 2007, and who is represented by State Bargaining Units 12 or 13 means the highest annual average compensation earnable by the member during a designated 36-month period.

(3) Existing law entitles the survivor of a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation who is killed as a result of injury arising out of, and in the course of, his or her duties, to a special death benefit.

This bill would instead allow for that special death benefit only if the member's death occurred as a direct result of injury arising out of, and in the course of, those duties while working on the California highway system performing highway maintenance.

(4) This bill would also appropriate \$47,756,000 from the General Fund and other unallocated funds for expenditure for the 2006–07 fiscal year for state employee compensation in augmentation of the Budget Act of 2006, as specified.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve the provisions of agreements pursuant to Section 3517 of the Government Code entered into by the state employer and State Bargaining Units 12 and 13, International Union of Operating Engineers, on June 29, 2006, (State Bargaining Unit 12), and July 10, 2006, (State Bargaining Unit 13), that require the expenditure of funds.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Units 12 and 13, International Union of Operating Engineers, and that require the expenditure of funds, are hereby approved for the purposes of subdivision (b) of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect

on or after July 1, 2006, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memoranda of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memoranda of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding included in Section 2 that require the expenditure of funds shall become effective even if the provisions of the memoranda of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 20037.8 is added to the Government Code, to read:

20037.8. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 12 or 13.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 12 or 13 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

SEC. 6. Section 21537.5 of the Government Code is amended to read:

21537.5. (a) The special death benefit is payable if the deceased was a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation, if his or her death occurred as a direct result of injury arising out of and in the course of his or her official duties with the department working on the California highway system performing highway maintenance, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of that injury.

(b) The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

SEC. 7. The sum of forty-seven million seven hundred fifty-six thousand dollars (\$47,756,000) is hereby appropriated for expenditure in the 2006–07 fiscal year in augmentation of, and for the purpose of state employee compensation as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2006 in accordance to the following schedule:

(a) Seventeen million five hundred sixty-three thousand dollars (\$17,563,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Nineteen million three hundred twenty-three thousand dollars (\$19,323,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Ten million eight hundred seventy thousand dollars (\$10,870,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2006–07 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2006

Governor